IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

C.W.P. NO. 7362 OF 2007

Date of Decision: May 17, 2007

Mohari Ram

…Petitioner

Versus

State of Punjab and others

…Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Gourave Bhayyia, Advocate,
for the petitioner.

JUDGMENT

M. M. KUMAR, J. (Oral)

This petition filed under Article 226 of the Constitution of India prays for quashing order dated 26.5.2005 (P-3), whereby only 50% amount of the retiral dues of the petitioner have been ordered to be released after pre-audit. Further a writ in the nature of mandamus has been sought directing respondent Nos. 2 and 3 to release all the retiral benefits of the petitioner along with interest @ 24% per annum for the delayed period. In this regard the petitioner had sent a legal notice, dated 4.2.2006 (P-6). However, when nothing

has been heard, the petitioner has approached this Court by filing instant petition.

We have heard the learned counsel for the petitioner at some length and perused the paper book.

Before disposing of this writ petition we would refer to the views of Hon'ble the Supreme Court in the case of **Salem Advocate Bar Association v. Union of India, (2005) 6 SCC 344**. In paras 38 and 39 of the judgment it has been required that whenever notice under Section 80 C.P.C. or under any similar provision are sent then it is mandatory on the part of State or Central Government or other authorities to send reply to such notice. It is well settled that before seeking a direction or a writ of mandamus, a demand justice notice is required to be served on the respondents as has been done in the present case. The petitioner had sent a legal notice, dated 4.2.2006 (P-6), to which no reply is stated to have been received. It has also been observed by Hon'ble the Supreme Court that in cases where such like notice has not been replied then cost is required to be imposed. Therefore, without going into the merits of the case, we dispose of the writ petition at this stage with a direction to the respondents to take a decision on the legal notice dated 4.2.2006 (P-6) by passing a speaking order within a period of two months from the date of receipt of a certified copy of this order.

Petition stands disposed of in the above terms.

(M.M. KUMAR)
JUDGE

(RAJESH BINDAL)
JUDGE

May 17, 2007
Pkapoor